

Senate Daily Reader

Tuesday, February 21, 2006

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State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

527M0317

HOUSE ENGROSSED NO. **HB 1013** - 02/10/2006

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to make an appropriation to the Board of Regents for the
2 construction, remodeling, or renovation of various structures or facilities on the campuses
3 of the state's universities to provide additional support for women's athletic programs in
4 furtherance of the policies and objectives of Title IX of the Education Act Amendments of
5 1972.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

7 Section 1. The Board of Regents may contract for the construction, completion, furnishing,
8 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,
9 electric facilities, sidewalks, parking, landscaping, architectural and engineering services,
10 asbestos abatement, removal of existing roofing and structures, and such other services or
11 actions as may be required to accomplish, the projects enumerated in section 3 of this Act, all
12 at the estimated cost of three million ten thousand seven hundred fourteen dollars.

13 Section 2. There is hereby appropriated the sum of three hundred twenty-three thousand
14 seven hundred fourteen dollars (\$323,714) from the higher education facilities fund, and two
15 million six hundred eighty-seven thousand dollars (\$2,687,000) from other funds available to



the universities for the projects specified in section 3 of this Act.

Section 3. The projects authorized in section 1 of this Act are the following projects, together with their pertinent appropriations:

(1) At Black Hills State University in Spearfish, South Dakota, projects to upgrade a locker room, provide office space for coaches, and create practice and competition softball fields, all for an estimated cost of one million nine hundred sixty-nine thousand seven hundred fourteen dollars of which three hundred twenty-three thousand seven hundred fourteen dollars (\$323,714) is to be appropriated from the higher education facilities fund allocated to the university as part of its annual maintenance and repair allocation, and one million six hundred forty-six thousand dollars (\$1,646,000) is to be appropriated from other funds available to the university;

(2) At Dakota State University in Madison, South Dakota, projects to upgrade softball dugouts, acquire portable fencing for the softball field, upgrade the soccer field, and upgrade locker room space, all for an estimated cost of eighty-five thousand five hundred dollars (\$85,500), to be appropriated from other funds available to the university;

(3) At Northern State University in Aberdeen, South Dakota, projects to upgrade soccer fields and to provide office space for coaches, all for an estimated cost of thirty-four thousand five hundred dollars (\$34,500), to be appropriated from other funds available to the university;

(4) At South Dakota State University in Brookings, South Dakota, a project to upgrade softball facilities for an estimated cost of one hundred twenty-five thousand dollars (\$125,000), to be appropriated from other funds available to the university;

1 (5) At the University of South Dakota in Vermillion, South Dakota, projects to renovate
2 showers and locker rooms, to improve softball fields, soccer fields and their seating,
3 and to make improvements to the indoor tennis facility, all for an estimated cost of
4 seven hundred ninety-six thousand dollars (\$796,000), to be appropriated from other
5 funds available to the university.

6 Section 4. The Board of Regents may accept, transfer, and expend any funds obtained for
7 these purposes from federal sources, gifts, contributions, or any other source, all of which shall
8 be deemed appropriated to the projects authorized by this Act, in addition to the amounts
9 otherwise authorized herein.

10 Section 5. The design and construction of the facilities approved by this Act shall be under
11 the general supervision of the Bureau of Administration as provided in § 5-14-2. The
12 commissioner of the Bureau of Administration and the executive director of the Board of
13 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures
14 authorized by this Act.

15 Section 6. No general fund dollars may be used for the maintenance and repair of the
16 facilities authorized by this Act.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

527M0321

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **HB 1015** - 02/14/2006

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to acquire an equestrian
2 facility for South Dakota State University and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Board of Regents shall select a site for equestrian facilities including
5 approximately fifty-seven thousand square feet of buildings, ninety-five thousand square feet
6 of site improvements, and approximately fifteen acres of pasture development from within the
7 lands acquired pursuant to section 3, chapter 96, of the 2001 Session Laws. The board shall
8 lease that site, together with such portions of surrounding grounds as may be needed for
9 construction purposes, to the South Dakota State University Foundation to permit the foundation
10 to construct the structures to house the equestrian facilities.

11 Section 2. In consideration for the lease authorized in section 1 of this Act, the foundation
12 shall construct the project in accordance with the requirements of chapters 5-14 and 5-18 just
13 as though the structures and improvements comprising the equestrian facilities were constructed
14 by the Board of Regents. However, the foundation shall enter into all contracts for the
15 construction of the facility and make all payments therefor, once the payments have been duly



1 authorized by the Bureau of Administration and the executive director of the Board of Regents.

2 Section 3. The term of the lease authorized in section 1 of this Act may not exceed the time
3 required for site preparation and construction through project acceptance plus ten years from the
4 date of acceptance.

5 Section 4. The Board of Regents shall lease the equestrian facilities constructed pursuant to
6 this Act from the foundation for a period of ten years from the date of acceptance at an annual
7 lease payment of one hundred sixty-five thousand dollars.

8 Section 5. The South Dakota State University Foundation shall maintain and repair the
9 equestrian facilities during the term of the leaseback.

10 Section 6. Upon termination of the lease and leaseback authorized by the Act, the foundation
11 shall donate the facility and all right or interest that it may have in the equestrian facilities to the
12 Board of Regents, on behalf of the State of South Dakota, for the use and benefit of South
13 Dakota State University and the Board of Regents may accept the equestrian facilities on behalf
14 of the State of South Dakota, for the use and benefit of South Dakota State University.

15 Section 7. No general fund dollars may be used for the maintenance and repair or lease
16 payments of the facility authorized by this Act.

17 Section 8. Whereas, this Act is necessary for the support of the state government and its
18 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
19 full force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

771M0416

HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB 1081** - 01/31/2006

Introduced by: Representatives Dykstra, Cutler, Frost, Fryslie, Garnos, Glover, Hackl, Howie, Olson (Ryan), Rausch, Sigdestad, Street, Van Etten, and Weems and Senators Peterson (Jim), Bartling, Duniphan, Hansen (Tom), Hanson (Gary), Hundstad, Koskan, Lintz, McCracken, McNenny, Olson (Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to exempt from the sales and use taxes certain maintenance
2 items used on agricultural machinery and equipment and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-45-3.4 be amended to read as follows:

5 10-45-3.4. There are exempted from the provisions of this chapter and the tax imposed by
6 it, gross receipts from the sale of ~~parts~~ the following:

- 7 (1) Parts or repairs on machinery or equipment which are clearly identifiable as used
8 primarily for agricultural purposes, including irrigation equipment, if the part
9 replaces a farm machinery or irrigation equipment part assigned a specific or generic
10 part number by the manufacturer of the farm machinery or irrigation equipment; and
11 (2) Maintenance items and maintenance services used on machinery or equipment which
12 are clearly identifiable as used primarily for agricultural purposes, including
13 irrigation equipment.



1 Section 2. That § 10-46-17.6 be amended to read as follows:

2 10-46-17.6. There are exempted from the provisions of this chapter and the tax imposed by
3 it, the use of ~~parts~~ the following:

4 (1) Parts or repairs on machinery or equipment which are clearly identifiable as used
5 primarily for agricultural purposes, including irrigation equipment, if the part
6 replaces a farm machinery or irrigation equipment part assigned a specific or generic
7 part number by the manufacturer of the farm machinery or irrigation equipment; and

8 (2) Maintenance items and maintenance services used on machinery or equipment which
9 are clearly identifiable as used primarily for agricultural purposes, including
10 irrigation equipment.

11 Section 3. Whereas, this Act is necessary for the support of the state government and its
12 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
13 full force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

444M0590

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1093** - 02/15/2006

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Van Norman, Bradford, Elliott, Gillespie, Glover, Haley, Halverson, Hargens, Kroger, Lange, Miles, Roberts, Sigdestad, Street, Thompson, and Valandra and Senator Two Bulls

1 FOR AN ACT ENTITLED, An Act to establish certain criteria regarding the construction and
2 sale of homes by a state agency or the South Dakota Housing Development Authority.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Any program established by any state agency or the South Dakota Housing
5 Development Authority for the primary purpose of constructing or selling homes shall meet the
6 following conditions:

7 (1) The home to be constructed or sold does not exceed eight hundred square feet;

8 (2) The purchaser of the home is either disabled as defined in subdivision 10-6A-1(4) or
9 sixty-two years of age or older, or both;

10 (3) The home will be the primary residence of the purchaser;

11 (4) The home will not be placed in a municipality with a population of five thousand or
12 more;

13 (5) The purchaser of the home has a household income that does not exceed sixty-five
14 percent of the median household income of the county where the person is placing



1 the house; and

2 (6) The purchaser of the home has a net worth that does not exceed a value that is twice

3 the median household income of the county where the person is placing the house.

4 This section does not apply to any home owned, purchased, or received by any state agency

5 or the South Dakota Housing Development Authority for another purpose.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

780M0459

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1110 - 02/02/2006

Introduced by: Representatives Krebs, Boomgarden, Faehn, Frost, Garnos, Hargens, Haverly, Koistinen, Kroger, Miles, Peters, Sebert, and Willadsen and Senators Greenfield, Apa, Duniphan, Gray, Hansen (Tom), McCracken, Olson (Ed), Peterson (Jim), Sutton (Dan), and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to provide compensation to certain retailers for collecting
2 and remitting the sales tax.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any person required to file a return and remit the tax imposed by this chapter on a monthly
7 basis and who timely files the return and pays the tax is allowed, as compensation for the
8 expense of collecting and paying the tax monthly, a credit equal to one and one-half percent of
9 the gross amount of the tax due. However, the credit may not exceed seventy dollars per month.

10 Section 2. This Act is effective on July 1, 2007.



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

771M0417

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1154 - 02/02/2006

Introduced by: Representatives Dykstra, Dennert, Faehn, Fryslie, Haley, Halverson, Hargens, Jensen, McCoy, Miles, Novstrup, Rhoden, Sigdestad, and Street and Senators Peterson (Jim), Bartling, Duenwald, Gant, Gray, Greenfield, Hansen (Tom), Hanson (Gary), Hundstad, Koskan, Lintz, McNenny, Olson (Ed), Smidt, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to impose an excise tax on the gross receipts from the sale
2 and use of farm machinery, farm attachment units, and irrigation equipment, to exempt the
3 gross receipts from the sale of farm machinery, farm attachment units, and irrigation
4 equipment from sales and use tax, and to declare an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. There is hereby imposed an excise tax of four percent on the gross receipts from
7 the sale, resale, or lease of farm machinery, attachment units, and irrigation equipment used
8 exclusively for agricultural purposes. However, if any trade-in or exchange of used farm
9 machinery, attachment units, and irrigation equipment is involved in the transaction, the excise
10 tax is only due and may only be collected on the cash difference.

11 Section 2. An excise tax is hereby imposed on the privilege of the use, storage, and
12 consumption in this state of farm machinery, attachment units, and irrigation equipment used
13 exclusively for agricultural purposes purchased or leased for use in this state at the same rate



1 of the purchase price of said property as imposed pursuant to section 1 of this Act.

2 Section 3. An excise tax is imposed at the same rate as imposed by section 1 of this Act on
3 the privilege of the use, storage, or consumption in this state of farm machinery, attachment
4 units, and irrigation equipment used exclusively for agricultural purposes not originally
5 purchased for use in this state, but thereafter used, stored, or consumed in this state, at the same
6 rate as provided in section 1 of this Act and imposed on the fair market value of the property
7 at the time it is brought into this state. However, if any trade-in or exchange of used farm
8 machinery, attachment units, and irrigation equipment is involved in the transaction, the excise
9 tax is only due and may only be collected on the cash difference. The use, storage, or
10 consumption of farm machinery, attachment units, and irrigation equipment used exclusively
11 for agricultural purposes that is more than seven years old at the time it is brought into the state
12 by the person who purchased such property for use in another state is exempt from the tax
13 imposed by this Act.

14 Section 4. For purposes of this Act, farm machinery, includes all-terrain vehicles of three
15 or more wheels used exclusively by the purchaser for agricultural purposes on agricultural land.
16 The purchaser shall sign and deliver to the seller a statement that the all-terrain vehicle will be
17 used exclusively for agricultural purposes.

18 Section 5. Farm machinery and attachment units, other than replacement parts, and irrigation
19 equipment sold at public auction shall be taxed pursuant to section 1 of this Act without regard
20 to its intended use.

21 Section 6. The tax imposed by section 1 of this Act shall be collected and administered by
22 the Department of Revenue and Regulation.

23 Section 7. Any person who holds a license issued pursuant to this Act or chapters 10-33A,
24 10-45, 10-45D, 10-46A, 10-46B, or 10-52A or who is a person whose receipts are subject to the

1 tax imposed by or this Act or chapters 10-33A, 10-45, 10-45D, 10-46A, 10-46B, or 10-52A
2 shall, except as otherwise provided in this section, file a return, and pay any tax due, to the
3 Department of Revenue and Regulation on or before the twentieth day of the month following
4 each monthly period. The return shall be filed on forms prescribed and furnished by the
5 department.

6 If the person remits the tax by electronic transfer to the state, the person shall file the return
7 by electronic means on or before the twenty-third day of the month following each monthly
8 period and remit the tax on or before the second to the last day of the month following each
9 monthly period.

10 The secretary may require or allow a person to file a return, and pay any tax due, on a basis
11 other than monthly and the return and remittance is due the last day of the month following the
12 reporting period, or at time otherwise determined by the secretary.

13 The secretary of revenue and regulation may grant an extension of not more than five days
14 for filing a return and remittance. However, the secretary of revenue and regulation may grant
15 an extension for remitting the tax to a qualified business as provided in §§ 10-45-99 to 10-45-
16 107, inclusive, for six months.

17 Unless an extension is granted, penalty or interest under § 10-59-6 shall be paid if a return
18 or remittance is not made on time.

19 Section 8. Where applicable and not inconsistent with this Act, the provisions of chapters
20 10-45 and 10-46, including the exemption, definition, administrative, collection, and
21 enforcement provisions, including penalty and interest, are applicable to the tax imposed by this
22 Act.

23 Section 9. The revenue from the tax imposed by this Act shall be deposited in the general
24 fund.

1 Section 10. There are exempted from the tax imposed by this Act, gross receipts from the
2 rental of devices primarily used to apply fertilizers and pesticides as defined in § 38-20A-1, for
3 agricultural purposes, if the tax imposed by this Act was paid upon the original purchase of the
4 device.

5 Section 11. The secretary of revenue and regulation may promulgate rules pursuant to
6 chapter 1-26 concerning:

- 7 (1) Licensing, including bonding and filing license applications;
- 8 (2) The filing of returns and payment of the tax;
- 9 (3) Determining the application of the tax and exemptions;
- 10 (4) Taxpayer record-keeping requirements;
- 11 (5) Determining auditing methods; and
- 12 (6) Determining the age and value of the farm machinery, attachment units, and
13 irrigation equipment brought into this state.

14 Section 12. Any person who:

- 15 (1) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed
16 by this Act is guilty of a Class 6 felony;
- 17 (2) Fails to pay tax due under this Act within thirty days from the date the tax becomes
18 due is guilty of a Class 1 misdemeanor;
- 19 (3) Fails to keep the records and books required by this Act or refuses to exhibit these
20 records to the secretary of revenue or the secretary's agents for the purpose of
21 examination is guilty of a Class 1 misdemeanor;
- 22 (4) Fails to file a return required by this Act within thirty days from the date the return
23 is due is guilty of a Class 1 misdemeanor;
- 24 (5) Willfully violates any rule of the secretary of revenue for the administration and

1 enforcement of the provisions of this Act is guilty of a Class 1 misdemeanor; or

2 (6) Violates either subdivision (2) or subdivision (4) two or more times in any twelve-
3 month period is guilty of a Class 6 felony.

4 For purposes of this section, the term, person, includes an officer, member, member-
5 manager, partner, general partner, or limited partner of an entity organized pursuant to Title 47
6 or 48 who has control or supervision of, or is charged with the responsibility for, making tax
7 returns or payments pursuant to this Act.

8 Section 13. That § 10-59-1 be amended to read as follows:

9 10-59-1. The provisions of this chapter apply to any taxes or fees or persons subject to taxes
10 or fees imposed by, and to any civil or criminal investigation authorized by, chapters 10-39, 10-
11 39A, 10-39B, 10-43, 10-45, 10-45D, 10-46, 10-46A, 10-46B, 10-46C, 10-47B, 10-52, 10-52A,
12 32-3, 32-3A, 32-5, 32-5B, 32-6B, 32-9, 32-10, and 34A-13 and §§ 22-25-48, 49-31-51, 50-4-13
13 to 50-4-17, inclusive, this Act, and the provisions of chapter 10-45B.

14 Section 14. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 There are exempted from the provisions of this chapter and from the tax imposed by it, gross
17 receipts from the sale, resale, or leasing of farm machinery, attachment units, and irrigation
18 equipment used exclusively for agricultural purposes. The term, farm machinery, includes
19 all-terrain vehicles of three or more wheels used exclusively by the purchaser for agricultural
20 purposes on agricultural land. The purchaser shall sign and deliver to the seller a statement that
21 the all-terrain vehicle will be used exclusively for agricultural purposes.

22 Section 15. That § 10-45-3 be repealed.

23 ~~10-45-3. There is hereby imposed a tax of four percent on the gross receipts from the sale~~
24 ~~or resale of farm machinery and attachment units other than replacement parts; or irrigation~~

1 ~~equipment used exclusively for agricultural purposes by licensed South Dakota retailers.~~
2 ~~However, if any trade-in or exchange of used farm machinery is involved in the transaction, the~~
3 ~~tax is only due and shall be collected only on the cash difference.~~

4 Section 16. That § 10-45-3.2 be repealed.

5 ~~— 10-45-3.2. For purposes of § 10-45-3, farm machinery shall include all-terrain vehicles of~~
6 ~~three or more wheels used exclusively by the purchaser for agricultural purposes on agricultural~~
7 ~~land. The purchaser shall sign and deliver to the seller a statement that the all-terrain vehicle~~
8 ~~will be used exclusively for agricultural purposes.~~

9 Section 17. That § 10-45-3.3 be repealed.

10 ~~— 10-45-3.3. Farm machinery and attachment units, other than replacement parts, and~~
11 ~~irrigation equipment sold at public auction shall be taxed pursuant to § 10-45-3 without regard~~
12 ~~to its intended use.~~

13 Section 18. That § 10-45-5 be amended to read as follows:

14 10-45-5. There is imposed a tax at the rate of four percent upon the gross receipts of any
15 ~~person from engaging in the business of leasing farm machinery or irrigation equipment used~~
16 ~~for agricultural purposes and~~ four percent upon the gross receipts of any person from engaging
17 or continuing in any of the following businesses or services in this state: abstracters;
18 accountants; architects; barbers; beauty shops; bill collection services; blacksmith shops; car
19 washing; dry cleaning; dyeing; exterminators; garage and service stations; garment alteration;
20 cleaning and pressing; janitorial services and supplies; specialty cleaners; laundry; linen and
21 towel supply; membership or entrance fees for the use of a facility or for the right to purchase
22 tangible personal property or services; photography; photo developing and enlarging; tire
23 recapping; welding and all repair services, except farm machinery, farm attachment units, or
24 irrigation equipment repair services; cable television; and rentals of tangible personal property

1 except leases of tangible personal property between one telephone company and another
2 telephone company, motor vehicles as defined by § 32-5-1 leased under a single contract for
3 more than twenty-eight days and mobile homes. However, the specific enumeration of
4 businesses and professions made in this section does not, in any way, limit the scope and effect
5 of § 10-45-4.

6 Section 19. That § 10-45-5.2 be amended to read as follows:

7 10-45-5.2. The following services enumerated in the Standard Industrial Classification
8 Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management and
9 Budget, Office of the President, are specifically subject to the tax levied by this chapter: metal
10 mining services (group no. 108); coal mining (major group 12); nonmetallic minerals (except
11 fuels) services (group no. 148); service industries for the printing trade (group no. 279); coating,
12 engraving and allied services (group no. 347); communication, electric and gas services
13 (division E except group nos. 483, 494 and 495); hotels, motels, and tourist courts (group no.
14 701); rooming and boarding houses (group no. 702); camps and recreational vehicle parks
15 (group no. 703); personal services (major group 72); business services (major group 73);
16 automotive repair, services, and parking (major group 75); miscellaneous repair services (major
17 group 76), except farm machinery, farm attachment units, or irrigation equipment repair
18 services; amusement and recreation services (major group 79); legal services (major group 81);
19 landscape and horticultural services (group no. 078); engineering, accounting, research,
20 management, and related services (major group 87, except industry no. 8733); title abstract
21 offices (group no. 654); consumer credit reporting agencies, mercantile reporting agencies, and
22 adjustment and collection agencies (group no. 732); real estate agents and managers (group no.
23 653); funeral service and crematories (group no. 726), except that purchases of goods or services
24 with money advanced as an accommodation are retail purchases and are not includable in gross

1 receipts for funeral services and fees paid or donated for religious ceremonies are not includable
2 in gross receipts for funeral services; loan brokers (industry no. 6163); repair shops and related
3 services, not elsewhere classified (industry no. 7699) but only locksmiths and locksmith shops;
4 and floor laying and other floor work not elsewhere classified (industry no. 1752). In addition,
5 the following services are also specifically subject to the tax levied by this chapter: livestock
6 slaughtering services; dog grooming services; airplane, helicopter, balloon, dirigible and blimp
7 rides for amusement or sightseeing; the collection and disposal of solid waste; and all appraiser's
8 services. The services enumerated in this section may not be construed as a comprehensive list
9 of taxable services but rather as a representative list of services intended to be taxable under this
10 chapter.

11 Section 20. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 There are exempted from the provisions of this chapter and from the tax imposed by it, gross
14 receipts from the sale, resale, or lease of farm machinery, attachment units, and irrigation
15 equipment used exclusively for agricultural purposes. The term, farm machinery, includes
16 all-terrain vehicles of three or more wheels used exclusively by the purchaser for agricultural
17 purposes on agricultural land. The purchaser shall sign and deliver to the seller a statement that
18 the all-terrain vehicle will be used exclusively for agricultural purposes.

19 Section 21. That § 10-45-16.1 be amended to read as follows:

20 10-45-16.1. There are hereby specifically exempted from the provisions of this chapter and
21 from the computation of the amount of tax imposed by it, gross receipts from the sale of
22 pesticides, as defined in § 38-20A-1, to be used exclusively by the purchaser for agricultural
23 purposes. Any product or substance to be used in conjunction with the application or use of
24 pesticides for agricultural purposes is also exempt. ~~Such~~ The products or substances include;

1 ~~but are not limited to~~, adjuvants, surfactants, ammonium sulfate, inoculants, drift retardants,
2 water conditioners, seed treatments, foam markers, and foam dyes. Equipment, other than farm
3 machinery, attachment units, and irrigation equipment uses exclusively for agricultural purposes
4 for the application of pesticides and related products and substances is not exempt. The tax
5 imposed by this chapter on endoparasitocides and ectoparasitocides shall be deposited in the
6 veterinary student tuition and animal disease research and diagnostic laboratory fund to be used
7 for veterinary student tuition grants and the operations and activities conducted by the State
8 Animal Disease Research and Diagnostic Laboratory established in § 13-58-13.

9 Section 22. That § 10-46-17.5 be amended to read as follows:

10 10-46-17.5. The use in this state of ~~insecticides, herbicides, pesticides, rodenticides, and~~
11 ~~fungigants~~ as defined in § 38-20A-1 to be used exclusively for agricultural purposes is
12 specifically exempted from the tax imposed by this chapter. Any product or substance to be used
13 in conjunction with the application or use of pesticides for agricultural purposes is also exempt.
14 These products or substances include adjuvants, surfactants, ammonium sulfate, inoculants, drift
15 retardants, water conditioners, seed treatments, foam markers, and foam dyes. Equipment, other
16 than farm machinery, attachment units, and irrigation equipment used exclusively for
17 agricultural purposes, for the application of pesticides and related products and substances is not
18 exempt. The tax imposed by this chapter on endoparasitocides and ectoparasitocides shall be
19 deposited in the veterinary student tuition and animal disease research and diagnostic laboratory
20 fund to be used for veterinary student tuition grants and the operations and activities conducted
21 by the State Animal Disease Research and Diagnostic Laboratory established in § 13-58-13.

22 Section 23. That § 10-12A-4 be amended to read as follows:

23 10-12A-4. The department may enter into tax collection agreements with any Indian tribe
24 under the provisions of this chapter and chapter 1-24. These agreements may provide for the

collection of any of the following state taxes and any tribal taxes imposed by a tribe that are identical to the following state taxes:

- (1) The retail sales and service tax imposed by chapter 10-45;
- (2) The use tax imposed by chapter 10-46;
- (3) The contractors' excise tax imposed by chapter 10-46A;
- (4) The alternate contractors' excise tax imposed by chapter 10-46B;
- (5) The cigarette tax imposed by chapter 10-50;
- (6) The motor vehicle excise tax imposed by chapter 32-5B;
- (7) The fuel excise tax imposed by chapter 10-47B;
- (8) The wholesale tax on tobacco products imposed by chapter 10-50;
- (9) The amusement device tax imposed by chapter 10-58; ~~or~~
- (10) The gross receipts tax on visitor related businesses imposed by chapter 10-45D;
- (11) The excise tax on farm machinery, attachment units, and irrigation equipment imposed by this Act.

The agreement may provide for the retention by the department of an agreed-upon percentage of the gross revenue as an administrative fee.

Section 24. Sections 1 to 20, inclusive, are effective on April 1, 2006.

Section 25. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

295M0438

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1163** - 02/15/2006

Introduced by: Representatives O'Brien, Cutler, Faehn, Garnos, Gillespie, Haley, Hargens, Haverly, Hennies, Hunhoff, Jensen, Murschel, Nelson, Rausch, Rave, Roberts, Rounds, and Tidemann and Senators Bogue, Abdallah, Dempster, Duenwald, Hansen (Tom), Knudson, Moore, Olson (Ed), and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding court suspensions and
2 revocations of driver licenses.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-12-52.3 be amended to read as follows:

5 32-12-52.3. Upon a first conviction or a first adjudication of delinquency for a any violation,
6 while in a ~~motor~~ vehicle, of §§ 22-42-5 to ~~22-42-11~~ 22-42-9, inclusive, 22-42A-3, or 22-42A-4,
7 the court shall revoke the driver license or driving privilege of the ~~person~~ driver so convicted
8 for a period of one hundred eighty days.

9 Upon a second or subsequent conviction or a second or subsequent adjudication of
10 delinquency for a violation, while in a ~~motor~~ vehicle, of §§ 22-42-5 to ~~22-42-11~~ 22-42-9,
11 inclusive, 22-42A-3, or 22-42A-4, the court shall revoke the driver license or driving privilege
12 of the ~~person~~ driver so convicted for a period of one year or until the person's seventeenth
13 birthday, whichever is a longer period of time. For any offense under this section, the court may
14 issue an order, upon proof of financial responsibility pursuant to § 32-35-43.1, permitting the



1 person to operate a ~~motor~~ vehicle for purposes of the person's employment, attendance at school,
2 or counseling programs. Notwithstanding the provisions of chapters 26-7A, 26-8A, 26-8B, and
3 26-8C, the Unified Judicial System shall notify the Department of Public Safety of any
4 conviction or adjudication of delinquency for a violation, while in a ~~motor~~ vehicle, of §§ 22-42-
5 5 to ~~22-42-11~~ 22-42-9, inclusive, 22-42A-3, or 22-42A-4. The period of revocation shall begin
6 on the date the person's revoked driver license is received by the court or the department. At the
7 expiration of the revocation period, a person may make application as provided by law and shall
8 pay the license fee prescribed in § 32-12-47.1.

9 Section 2. That § 32-12-52.4 be amended to read as follows:

10 32-12-52.4. Upon a first conviction or a first adjudication as a child in need of supervision
11 for a violation of § 35-9-2 while in a ~~motor~~ vehicle, the court shall suspend the driver license
12 or driving privilege of ~~any the driver of a vehicle who~~, if the driver was under the age of
13 twenty-one when the offense occurred, for a period of ~~six months~~ thirty days.

14 Upon a second conviction or a second adjudication as a child in need of supervision for a
15 violation of § 35-9-2 while in a vehicle, the court shall suspend the driver license or driving
16 privilege of the driver, if the driver was under the age of twenty-one when the offense occurred,
17 for a period of one hundred eighty days.

18 Upon a ~~second~~ third or subsequent conviction or a ~~second~~ third or subsequent adjudication
19 as a child in need of supervision for a violation of § 35-9-2 while in a ~~motor~~ vehicle, the court
20 shall suspend the driver license or driving privilege of ~~any the driver of a vehicle who~~, if the
21 driver was under the age of twenty-one when the offense occurred, for a period of one year. For
22 any offense under this section, the court may issue an order, upon proof of financial
23 responsibility pursuant to § 32-35-43.1, permitting the person to operate a ~~motor~~ vehicle for
24 purposes of the person's employment, attendance at school, or attendance at counseling

1 programs.

2 Notwithstanding the provisions of chapters 26-7A, 26-8A, 26-8B, and 26-8C, the Unified
3 Judicial System shall notify the Department of Public Safety of any conviction or adjudication
4 for a violation, while in a ~~motor~~ vehicle, of § 35-9-2 or chapter 32-23. The period of suspension
5 ~~shall begin~~ begins on the date the person's suspended driver license is received by the court or
6 the Department of Public Safety. At the expiration of the period of suspension, a person may
7 make application to have the license reinstated and pay the license fee as prescribed in § 32-12-
8 47.1.

9 Section 3. That § 32-24-3 be amended to read as follows:

10 32-24-3. If a conviction for a violation of § 32-24-1 is for a second or subsequent offense
11 within a period of one year, such person is guilty of a Class 1 misdemeanor, and the court shall,
12 in pronouncing sentence, order that the defendant's driving privilege be ~~suspended~~ revoked for
13 thirty days. However, the court may ~~in its discretion~~ issue an order, upon proof of financial
14 responsibility pursuant to § 32-35-43.1, permitting the person to operate a ~~motor~~ vehicle for
15 purposes of the person's employment ~~during the hours of the day and the days of the week as~~
16 ~~set forth in the order~~, attendance at school, or attendance at counseling programs. The court may
17 also order the revocation of the defendant's driving privilege for a further period not to exceed
18 one year or restrict the privilege in such manner as it sees fit for a period not to exceed one year.

19 Section 4. That § 32-23-21 be amended to read as follows:

20 32-23-21. It is a Class 2 misdemeanor for any person under the age of twenty-one years to
21 drive, operate, or be in actual physical control of any ~~motor~~ vehicle:

- 22 (1) If there is physical evidence of 0.02 percent or more by weight of alcohol in the
23 person's blood as shown by chemical analysis of the person's breath, blood, or other
24 bodily substance; or

(2) After having consumed marijuana or any controlled drug or substance for as long as physical evidence of the consumption remains present in the person's body.

If a person is found guilty of or adjudicated for a violation of this section, the Unified Judicial System shall notify the Department of Public Safety. Upon conviction or adjudication, the court shall suspend that person's driver's license or operating privilege for a period of ~~six months~~ thirty days for a first offense, one hundred eighty days for a second offense, or one year for any ~~second~~ third or subsequent offense. However, the court may, ~~in its discretion~~ upon proof of financial responsibility pursuant to § 32-35.43.1, issue an order permitting the person to operate a ~~motor~~ vehicle ~~during the hours and days of the week set forth in the order~~ for purposes of the person's employment, attendance at school, or attendance at ~~court-ordered~~ counseling programs.

Section 5. That § 22-16-41 be amended to read as follows:

22-16-41. Any person who, while under the influence of an alcoholic beverage, any controlled drug or substance, marijuana, or a combination thereof, without design to effect death, operates or drives a ~~motor~~ vehicle of any kind in a negligent manner and thereby causes the death of another person, including an unborn child, is guilty of vehicular homicide. Vehicular homicide is a Class 3 felony. In addition to any other penalty prescribed by law, the court may also order that the driver's license of any person convicted of vehicular homicide be revoked for such period of time as may be determined by the court but in no case less than two years.

Section 6. That § 32-12-15 be amended to read as follows:

32-12-15. The issuance of an instruction permit, motorcycle instruction permit, restricted minor's permit, or motorcycle restricted minor's permit is on a probationary basis. The Department of Public Safety upon the receipt of a record of conviction for a traffic violation or

1 for a violation of the restrictions in § 32-12-11, 32-12-11.1, 32-12-12, 32-12-12.1, 32-12-13,
2 or 32-12-14, committed prior to the minor's sixteenth birthday shall suspend ~~or revoke~~ the
3 minor's driving privileges according to the following schedule:

- 4 (1) A felony or Class 1 misdemeanor traffic conviction--suspension until the minor's
5 sixteenth birthday or as otherwise required by law;
- 6 (2) A first Class 2 misdemeanor traffic conviction--suspension for thirty days or as
7 otherwise required by law;
- 8 (3) A first conviction of a violation of the conditions of an instruction permit, a
9 motorcycle instruction permit, a restricted minor's permit, or a motorcycle restricted
10 minor's permit--suspension for thirty days or as otherwise required by law;
- 11 (4) A second Class 2 misdemeanor traffic conviction--~~revocation~~ suspension until the
12 minor's sixteenth birthday or for ninety days, whichever period is longer, or as
13 otherwise required by law; and
- 14 (5) A second conviction of a violation of the conditions of an instruction permit, a
15 motorcycle instruction permit, a restricted minor's permit, or a motorcycle restricted
16 minor's permit--~~revocation~~ suspension until the minor's sixteenth birthday or for
17 ninety days, whichever period is longer, or as otherwise required by law.

18 No permit may be suspended for a first violation of § 32-14-9.1, 32-21-27, 32-25-5, 32-26-
19 20, or 34A-7-7, ~~or 32-26-20~~.

20 If a minor has no instruction permit, motorcycle instruction permit, restricted minor's permit,
21 or motorcycle restricted minor's permit and is convicted of any traffic violation prior to the
22 minor's sixteenth birthday, the department shall suspend or revoke the minor's driving privilege
23 or privilege to apply for a driver license as provided in this section. A conviction for any traffic
24 violation that occurs prior to the issuance of an instruction permit, motorcycle instruction

1 permit, restricted minor's permit, motorcycle restricted minor's permit, motorcycle operator's
2 license or an operator's license shall be placed on the driving record and given the same
3 consideration as any violation that occurs following the issuance of an instruction permit,
4 motorcycle instruction permit, restricted minor's permit, motorcycle restricted minor's permit,
5 motorcycle operator's license, or an operator's license.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

951M0347

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1167 - 02/09/2006

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Wick, Boomgarden, Buckingham, Cutler, Deadrick, Dykstra, Faehn, Frost, Garnos, Glover, Hackl, Halverson, Heineman, Hennies, Hills, Hunhoff, Hunt, Jensen, Klaudt, Koistinen, Kraus, Krebs, Lange, McCoy, McLaughlin, Michels, Murschel, Nelson, Novstrup, Pederson (Gordon), Putnam, Rausch, Rave, Rhoden, Rounds, Schafer, Sebert, Street, Tidemann, Turbiville, Van Etten, Vehle, Weems, and Willadsen and Senators Knudson, Apa, Bogue, Broderick, Duenwald, Earley, Gray, Kelly, Koskan, Lintz, McNenny, Peterson (Jim), Smidt, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to create a tax relief fund and to dedicate certain sales and
2 use tax revenue received by the state through the Streamlined Sales and Use Tax Agreement.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby created in the state treasury the tax relief fund. The revenue
5 collected pursuant to section 2 of this Act shall be deposited in the tax relief fund for the
6 purpose of reducing the rate of taxation or reducing property taxes. The fund shall be invested
7 as provided by law, and the interest earned shall be credited to the fund. The Legislature may
8 not appropriate any money from the tax relief fund until the second fiscal year after Congress
9 approves legislation giving states the authority to require retailers to collect South Dakota's sales
10 and use tax.

11 Section 2. The additional net revenue received by the state from voluntary retail licensees



1 shall be deposited in the tax relief fund created pursuant to section 1 of this Act. For the
2 purposes of this Act, a voluntary retail licensee is any person licensed through the Streamlined
3 Sales and Use Tax Agreement to remit sales and use tax pursuant to chapters 10-45 and 10-46
4 who does not otherwise have a legal obligation to remit such taxes.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

139M0022

SENATE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1181** -

02/16/2006

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Jerke, Boomgarden, Davis, Deadrick, Dykstra, Fryslyie, Hennies, Hunhoff, Jensen, Koistinen, Kraus, Putnam, and Rave and Senators Koskan, Abdallah, and Broderick

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding humane societies.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 40-2-1 be amended to read as follows:

4 40-2-1. Any three or more citizens of this state ~~who have heretofore or who shall hereafter~~
5 ~~incorporate as a body corporate under the general laws for incorporation~~ organized as a
6 nonprofit corporation in this state, for the purpose of preventing cruelty to animals, may avail
7 themselves of the privileges of this chapter through an animal control officer subject to the
8 limitations in sections 2 and 3 of this Act. The board of county commissioners in each county
9 may grant authority to exercise the privileges and authority granted by this section to one or
10 more qualified nonprofit corporations for a period of up to three years based upon ability to
11 fulfill the purposes of this chapter.

12 Section 2. That chapter 40-2 be amended by adding thereto a NEW SECTION to read as
13 follows:



1 The board of directors of a humane society incorporated pursuant to § 40-2-1 may appoint
2 society members to act as animal control officers. The appointment shall be in writing. The
3 appointment is effective in a particular county only if an appointee obtains written authorization
4 from a circuit court judge having jurisdiction in the county in which the appointee seeks to
5 enforce this chapter or chapter 40-1. To obtain judicial authorization, an appointee seeking
6 judicial authorization shall provide evidence satisfactory to the judge that the appointee has
7 experience, education, or training that has prepared the appointee to assume the powers granted
8 to animal control officers pursuant to section 3 of this Act. The board of directors shall review
9 appointments every three years and may revoke an appointment at any time by filing a certified
10 revocation with the circuit court that approved the appointment. Any authorization may not
11 exceed three years or trustee termination, whichever occurs first.

12 Section 3. That chapter 40-2 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 Any law enforcement agency may enforce the provisions of this chapter or chapter 40-1. An
15 animal care and control agency may enforce the provisions of this chapter or chapter 40-1 in a
16 county or municipality if the legislative authority of the county or municipality has entered into
17 a contract with the agency to enforce the provisions of this chapter and chapter 40-1. An animal
18 control officer enforcing this chapter or chapter 40-1 shall comply with the same constitutional
19 and statutory restrictions concerning the execution of police powers imposed on a law
20 enforcement officer who enforces this chapter, chapter 40-1, and other criminal laws. An animal
21 control officer has the following enforcement powers when enforcing this chapter:

- 22 (1) The power to issue citations based on probable cause to offenders for misdemeanor
23 and felony violations of this chapter or chapter 40-1;
- 24 (2) The power to request that a law enforcement officer arrest and take into custody any

1 person the animal control officer has probable cause to believe has committed or is
2 committing a violation of this chapter or chapter 40-1. An animal control officer may
3 make an oral complaint to a prosecuting attorney or a law enforcement officer to
4 initiate an arrest. The animal control officer causing the arrest shall file with the
5 arresting agency a written complaint within twenty-four hours of the arrest, excluding
6 Sundays and legal holidays, stating the alleged act or acts constituting a violation;

7 (3) The power to carry protective devices, other than firearms, for personal protection;

8 (4) The power to prepare affidavits in support of search warrants and to execute search
9 warrants when accompanied by law enforcement officers to investigate violations of
10 this chapter or chapter 40-1, and to seize evidence of those violations.

11 Section 4. That chapter 40-2 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 For the purposes of this chapter and chapter 40-1, an animal care and control agency is any
14 municipal or county animal control agency or authority authorized to enforce municipal or
15 county ordinances regulating the care, control, licensing, or treatment of animals within the
16 municipality or county, and any nonprofit corporation organized under § 40-2-1 that contracts
17 with a municipality or county to enforce the municipal or county ordinances governing animal
18 care and control.

19 Section 5. That chapter 40-2 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 For the purposes of this chapter and chapter 40-1, an animal control officer is any person
22 employed, contracted, or appointed pursuant to section 3 of this Act by an animal care and
23 control agency or humane society to aid in the enforcement of ordinances or laws regulating the
24 care and control of animals.

1 Section 6. That § 40-2-3 be repealed.

2 ~~40-2-3. Any member, officer, or agent of any such society so incorporated who shall by the~~
3 ~~secretary of such society be duly authorized in writing and confirmed by the board of directors,~~
4 ~~and if within a municipal corporation, approved by the mayor or president of the board of such~~
5 ~~municipality, and if within a county beyond the limits of a municipal corporation, approved by~~
6 ~~the circuit judge and sworn in the same manner as are peace officers, may interfere to prevent~~
7 ~~the inhumane treatment of any animal pursuant to § 40-2-4 and may use such force as may be~~
8 ~~necessary to prevent such inhumane treatment and to that end may summon to his aid any peace~~
9 ~~officer. He may make arrests for the violation of any of the provisions of chapter 40-1, in~~
10 ~~accordance with the provisions of § 40-2-4 in the same manner as other peace officers. Such~~
11 ~~member, officer, or agent shall, when making such arrest, exhibit the badge adopted by the~~
12 ~~society of which he is a member, officer, or agent.~~

13 Section 7. That chapter 40-1 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 A veterinarian licensed in the State of South Dakota shall be in attendance during any
16 portion of an investigation of a commercial breeding operation that is conducted on the premises
17 of the commercial breeding operation. For purposes of this section the term, commercial
18 breeding operation, means any person engaged in the business of breeding dogs or cats who
19 sells, exchanges, or leases dogs or cats in return for consideration or who offers to do so,
20 whether or not the dogs or cats are bred, raised, trained, groomed, or boarded by the person. Any
21 person who owns or harbors three or fewer unaltered dogs or cats for breeding purposes that are
22 at least six months of age is not a commercial breeding operation. Any person who sells,
23 exchanges, or leases thirty or fewer dogs or cats in a twelve-month period is not a commercial
24 breeding operation if all such dogs or cats are sold, exchanged, or leased to a final owner rather

1 than for later retail sale or brokered trading. Any person knowingly selling, exchanging, or
2 leasing any dogs or cats for later retail sale or for brokered trading is a commercial breeding
3 operation.

4 Section 8. That § 40-1-5 be amended to read as follows:

5 40-1-5. Any peace officer, agent of the board, or agent or officer of any humane society
6 finding an animal inhumanely treated, as defined in § 40-1-2.4, shall, pursuant to a warrant or
7 court order, cause the animal to be impounded or otherwise properly cared for, and the
8 expenses of such impoundment or care shall be a lien on the animal to be paid before the animal
9 may be lawfully recovered. However, a warrant or court order is not necessary if the animal is
10 severely injured, severely diseased, or suffering and any delay in impounding the animal would
11 continue to cause the animal extreme suffering or if other exigent circumstances exist. If any
12 animal is impounded or subjected to other action under this section without a warrant or court
13 order, the officer or agent shall subsequently show cause for the impoundment or other action
14 to the court, and the court shall issue an order ratifying the impoundment or action; or, if
15 sufficient cause for the impoundment or action is not shown, the court shall order the return of
16 the animal to the owner or other appropriate remedy.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

347M0300

SENATE COMMERCE COMMITTEE ENGROSSED NO.

HB 1197 - 02/16/2006

Introduced by: Representatives Kroger, Bradford, Dennert, Elliott, Frysliie, Gassman, Gillespie, Glover, Haley, Halverson, Hargens, Hennies, Howie, Lange, Miles, O'Brien, Roberts, Sigdestad, Street, and Thompson and Senators Koetzle, Bartling, Gray, Hanson (Gary), Hundstad, Kloucek, Kooistra, Moore, Nesselhuf, Sutton (Dan), and Two Bulls

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the reduction of
2 unemployment benefits.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 61-6-20 be amended to read as follows:

5 61-6-20. An individual is not entitled to any benefits for a week for which ~~he~~ the individual
6 is receiving, has received, or will receive remuneration in the form of:

7 (1) Termination, vacation, holiday, severance, or dismissal payments or wages in lieu of
8 notice whether legally required or not. However, in the case of lump sum
9 termination, vacation, holiday, severance, or dismissal payments, the lump sum
10 payment shall be allocated over a period of weeks equal to the lump sum divided by
11 the employee's regular pay while employed. However, the payment shall be applied
12 for a period of weeks immediately following the last day of work. Payments made to
13 an individual based entirely on ~~his~~ the individual's contributions to a fund from which



1 the payments are made are not vacation pay;

2 (2) Compensation for temporary partial disability under the workers' compensation law
3 of any state or under a similar law of the United States; or

4 (3) The prorated weekly amount of any pension, annuity or retirement payment including
5 disability pension payments, based on the previous work of the individual. This
6 subdivision applies only to ~~primary social security retirement benefits and to~~
7 payments made under a plan contributed to by a base period employer. This does not
8 apply to payments made under Title II of the Social Security Act or the Railroad
9 Retirement Act of 1974, to military service-connected disability payments or to that
10 part, if any, of a pension, annuity or retirement payment that is attributable to
11 contributions of the individual. However, this subdivision shall apply to payments
12 made under Title II of the Social Security Act or the Railroad Retirement Act of 1974
13 until the balance of the unemployment trust fund reaches thirty million dollars at the
14 end of any calendar quarter.

15 If ~~such~~ the remuneration is less than the benefits which would otherwise be due under this
16 chapter, ~~he~~ the individual shall receive for ~~such~~ the week, if otherwise eligible, benefits reduced
17 by the amount of ~~such~~ the remuneration.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

571M0617

SENATE COMMERCE COMMITTEE ENGROSSED NO.

HB 1209 - 02/16/2006

Introduced by: Representatives Cutler, Bradford, Brunner, Buckingham, Dykstra, Gassman, Haley, Haverly, Hennies, Hills, Hunt, Jensen, Klaudt, Kraus, McCoy, Murschel, Rausch, Roberts, Schafer, Sigdestad, Street, Turbiville, Van Etten, and Willadsen and Senators Dempster, Abdallah, Bogue, Duenwald, Earley, Gray, Greenfield, Hanson (Gary), Knudson, Moore, Napoli, Nesselhuf, Olson (Ed), Sutton (Dan), and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding money lending.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 54-4-36 be amended to read as follows:

4 54-4-36. Terms used in ~~§§ 54-4-36 to 54-4-63, inclusive, and §§ 54-4-65 and 54-4-66~~ this
5 chapter mean:

6 (1) "Advertisement," a commercial message in any medium that aids, promotes, or
7 assists, directly or indirectly, the sale of products or services;

8 (2) "Commission," the State Banking Commission;

9 (3) "Director," the director of the Division of Banking of the Department of Revenue and
10 Regulation;

11 (4) "Division," the Division of Banking;

12 (5) "Finance charge," the amount, however denominated, which is ~~paid or payable for~~
13 ~~the privilege of paying for goods or services in one or more installments at the~~



1 ~~beginning of the transaction~~ the direct or indirect cost payable by a borrower for a
2 loan;

3 (6) "Financing institutions," any person engaged in the business of creating and holding
4 or purchasing or acquiring retail installment contracts;

5 (7) "Installment loan," a loan made to be repaid in specified amounts over a certain
6 number of months;

7 (8) "License," a license provided by §§ ~~54-4-36 to 54-4-63~~, inclusive this chapter;

8 (9) "Installment loan contract" or "contract," an agreement evidencing a installment loan
9 transaction;

10 (10) "Licensee," any person holding a license;

11 (11) "Loan," any installment loan, single pay loan, or open-end loan which may be
12 unsecured or secured by real or personal property; ~~and~~

13 (12) "Payday loan," any ~~small~~, short-maturity loan on the security of a check, any
14 assignment of an interest in the account of a person at a depository institution, any
15 authorization to debit the person's deposit account, ~~or~~ any assignment of salary or
16 wages payable to a person. A short-maturity loan made in anticipation of an income
17 tax refund is not a payday loan for purposes of this chapter;

18 (13) "Regional revolving loan fund," a regional revolving loan fund with a service area
19 of at least five South Dakota counties, a designated staff for loan processing and
20 servicing, a loan portfolio of at least one million dollars, and which is governed by
21 a board of directors that meets at least quarterly;

22 (14) "Short-term consumer loan," any loan to any individual borrower with a duration of
23 six months or less, including a payday loan. A title loan is not a short-term consumer
24 loan for purposes of this chapter;

(15) "Title lender," a regulated lender authorized pursuant to this chapter to make title loans; and

(16) "Title loan," a loan for a debtor that is secured by a nonpurchase money security interest in a motor vehicle and that is scheduled to be repaid in a single installment.

Section 2. That § 54-4-58 be amended to read as follows:

54-4-58. The licensee shall disclose in any loan contract the following:

- (1) The amount and date of the loan;
- (2) The amount of the down payment, if any;
- (3) The dates any payments are due and the amount of payments;
- (4) A list of any property used to secure the loan;
- (5) Any liens or title filings required;
- (6) The method used to compute the charges;
- (7) An explanation of ~~the charges~~ any fee or charge, including the cost of the loan as an annual percentage rate (APR);
- (8) Any fee or charge that may be applied for delinquency;
- (9) The conditions for an extension of payment or maturity of the loan; ~~and~~
- (10) Refinancing requirements, including any fee or charge; and
- (11) The address and telephone number of the Division of Banking and that any improprieties in making the loan or in loan practices may be referred to the division.

The licensee shall provide a copy of the loan contract to the debtor. A violation of this section is a Class 2 misdemeanor.

Section 3. That § 54-4-65 be amended to read as follows:

54-4-65. No licensee may renew, rollover, or flip a ~~payday~~ short-term consumer loan more than four times. No renewal, rollover, or flip is valid unless, at the time of the renewal, rollover,

1 or flip, the debtor pays the outstanding fee at the time of the renewal and reduces the principal
2 amount of the loan as provided in this section. Upon the first renewal, rollover, or flip and each
3 subsequent renewal, rollover, or flip, the debtor shall reduce the principal amount of the loan
4 by not less than ten percent of the original amount of the loan.

5 Section 4. That § 54-4-40 be amended to read as follows:

6 54-4-40. Any person who engages in the business of lending money shall apply for a license
7 as prescribed by §§ ~~54-4-36 to 54-4-63~~, inclusive this chapter. The applicant shall apply for a
8 license under oath on forms supplied by the division. The application shall contain the name of
9 the applicant's business, proof of surety bond, address of the business, the names and addresses
10 of the partners, members, officers, directors, or trustees, and other information the director may
11 consider necessary. The applicant shall pay an original license fee as set by rules of the
12 commission promulgated pursuant to chapter 1-26 not to exceed one thousand dollars. If the
13 application of an existing licensee is for an additional location, the application need only include
14 the location and identity of the location manager, plus any changes from the existing license,
15 or such other information the director may consider necessary. The State of South Dakota, any
16 political subdivision of the state, and any quasi-governmental organization created by an
17 executive order of the State of South Dakota and any subsidiary of such organization; any
18 nonprofit corporation formed pursuant to chapter 47-22; any nonprofit United States Treasury
19 Community Development Financial Institution, Small Business Administration Certified
20 Development Company, or Regional Revolving Loan Fund; or any commercial club, chamber
21 of commerce, or industrial development corporation formed pursuant to § 9-12-11 or 9-27-37
22 is subject to this chapter but exempt from initial license fees, renewal fees, and surety bond
23 requirements under this chapter.

24 Section 5. That § 54-4-42 be amended to read as follows:

54-4-42. The applicant shall submit with the application for a license a bond in an amount not to exceed the total of ten thousand dollars for the first license and two thousand five hundred dollars for each additional license. The bond shall be satisfactory to the director and issued by a surety company qualified to do business as a surety in this state. The bond shall be in favor of this state for the use of this state and any person who has a cause of action under §§ ~~54-4-36 to 54-4-63, inclusive~~, this chapter against the licensee. The bond shall be conditioned on:

(1) The licensee's faithful performance under §§ ~~54-4-36 to 54-4-63, inclusive~~, this chapter and any rules adopted pursuant to §§ ~~54-4-36 to 54-4-63, inclusive~~ this chapter; and

(2) The payment of any amounts that are due to the state or another person during the calendar year for which the bond is given.

The aggregate liability of a surety to all persons damaged by a licensee's violation of §§ ~~54-4-36 to 54-4-63, inclusive~~, this chapter may not exceed the amount of the bond.

Section 6. That § 54-4-48 be amended to read as follows:

54-4-48. The director may issue a cease and desist order from any practice that does not conform to the requirements set forth in §§ ~~54-4-36 to 54-4-63, inclusive~~, this chapter or any commission rule, order, or condition imposed in writing, or any federal statute, rule, or regulation pertaining to consumer credit. A cease and desist order may be issued to any licensee or to any person engaging in the business of lending money without a license. A licensee aggrieved by such order may appeal pursuant to chapters 1-26 and 1-26D.

Section 7. That § 54-4-51 be amended to read as follows:

54-4-51. In addition to any other means provided by law for the enforcement of a restraining order or injunction, the court, in which the action is brought, may impound, and appoint a receiver for, the property and business of the defendant, including books, papers, documents,

1 and records, as the court may deem reasonably necessary to prevent violations of ~~§§ 54-4-36 to~~
2 ~~54-4-63, inclusive~~ this chapter. The receiver, when so appointed and qualified, shall control the
3 custody, collection, administration, and liquidation of the property and business.

4 Section 8. That § 54-4-53 be amended to read as follows:

5 54-4-53. Any money received by the division pursuant to ~~§§ 54-4-36 to 54-4-63, inclusive,~~
6 this chapter shall be deposited in the banking revolving fund.

7 Section 9. That § 54-4-55 be amended to read as follows:

8 54-4-55. Except for taxes on real property and license fees and other fees imposed by ~~§§ 54-~~
9 ~~4-36 to 54-4-63, inclusive~~ this chapter, the tax imposed in § 54-4-54 is in lieu of all other taxes
10 and license fees, state, county, or local, upon the business of the licensee, or upon any money,
11 credits, or other assets of the licensee whether tangible or intangible, and which money, credits,
12 or other assets are used for or in connection with the conduct of business transacted in South
13 Dakota. However, amounts determined to be in excess of business capital requirements are not
14 exempt from other taxes.

15 Section 10. That § 54-4-57 be amended to read as follows:

16 54-4-57. The division may annually, or as often as the director considers necessary, conduct
17 an examination of business records and accounts of any licensee licensed under ~~§§ 54-4-36 to~~
18 ~~54-4-63, inclusive~~ this chapter. The director may charge back to the licensee any cost associated
19 with an on-site examination. The director may waive an on- site examination and only require
20 an annual self-examination. If a licensee conducts a self-examination, the licensee shall provide
21 any information requested under oath and on forms provided by the division by order or rule.
22 The provisions of § 51A-2-35 apply to records and examination reports required under this
23 chapter.

24 Section 11. That § 54-4-64 be amended to read as follows:

54-4-64. The provisions of §§ ~~54-4-36 to 54-4-63, inclusive~~, this chapter do not apply to any person selling goods or services and providing financing for such goods or services.

Section 12. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as follows:

A title loan shall be evidenced by a written agreement in which a title lender agrees to make a title loan to a debtor and the debtor agrees to give the title lender a security interest in a motor vehicle owned by the debtor. The debtor shall give the title lender possession of the certificate of title to such motor vehicle. Except as otherwise provided in this chapter, the provisions of chapter 57A-9 apply to title loans and to persons engaged in the business of making title loans.

Section 13. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as follows:

Any title loan shall be for an initial term of no more than one month but may be renewed for additional one-month periods. No title loan may be renewed more than four times. No title loan is valid unless, at the time of the renewal, the debtor makes a payment of at least ten percent of the original principal amount of the title loan, in addition to any finance charges that are due. If at any renewal requiring a principal reduction, the debtor has not made previous principal reductions adequate to satisfy the current required principal reduction, and the debtor does not pay at least ten percent of the original loan amount, the title lender may either declare the debtor in default or renew the title loan and defer the required principal payment for an additional period. However, no further finance charges may accrue or be earned against the principal amount so deferred. For purposes of this section, a renewal is any extension or continuation of a title loan for an additional period without any change to the title loan or its terms other than a reduction in principal.

Section 14. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 If a debtor defaults in the repayment of a title loan, the title lender's sole remedy is to seek
3 possession and sale of the motor vehicle securing the loan, and the title lender may not pursue
4 the debtor personally in any action or proceeding for repayment of the loan or for any deficiency
5 after the sale. The title lender shall return to the debtor any surplus obtained after the sale that
6 is in excess of the amount owed on the loan after any reasonable expenses of repossession,
7 storage, and sale, including court costs and attorney's fees have been deducted. The remedy
8 limitation provided in this section does not apply in the following circumstances:

9 (1) If a debtor obtains a title loan from a title lender under false pretenses by not
10 disclosing the existence of a valid prior lien or security interest affecting the motor
11 vehicle; or

12 (2) If the debtor intentionally conceals, impairs, or destroys the collateral.

State of South Dakota

EIGHTY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2006

400M0640

HOUSE ENGROSSED NO. **HB 1235** - 02/10/2006

Introduced by: The Committee on Education at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to increase the compulsory attendance age for school
2 attendance.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-27-1 be amended to read as follows:

5 13-27-1. Every person having control of a child, who is six years old by the first day of
6 September and who has not exceeded the age of ~~sixteen~~ eighteen, shall cause the child to
7 regularly and annually attend some public or nonpublic school for the entire term during which
8 the public school in the district in which the person resides, or the school to which the child is
9 assigned to attend, is in session, until the child reaches the age of ~~sixteen~~ eighteen years, unless
10 the child has graduated or is excused as provided in this chapter. The eighteen years of age
11 requirement does not apply to any child who was born from July 1, 1990 to June 30, 1992,
12 inclusive, and who has legally not regularly attended a public or nonpublic school at any time
13 from July 1, 2006 to June 30, 2008, inclusive.

14 Any child under age six enrolled in any elementary school or kindergarten program is
15 subject to the compulsory attendance statutes of this state. A waiver of the compulsory
16 attendance requirement for children under the age of seven years of age shall be granted by the



1 school district upon the request of the parents.

2 Section 2. The provisions of this Act are effective July 1, 2008.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0672 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1237 - 02/03/2006

Introduced by: The Committee on Appropriations at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to make an appropriation to fund tax refunds for elderly and
2 disabled persons and to revise the income eligibility requirements for property tax and sales
3 tax refunds.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. There is hereby appropriated from the state general fund the sum of one million
6 dollars (\$1,000,000), or so much thereof as may be necessary, to the Department of Revenue
7 and Regulation to provide refunds for real property tax and sales tax to elderly and disabled
8 persons pursuant to chapters 10-18A and 10-45A. An amount not to exceed ten thousand dollars
9 in fiscal year 2007 may be used for the administrative costs of this Act.

10 Section 2. The secretary of revenue and regulation shall approve vouchers and the state
11 auditor shall draw warrants to pay expenditures authorized by this Act.

12 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by
13 June 30, 2007, shall revert in accordance with § 4-8-21.

14 Section 4. That § 10-18A-5 be amended to read as follows:

15 10-18A-5. The amount of refund of real property taxes due or paid for a single-member



2			The refund of real
3	If household income is		property taxes due
4	more than:	but less than	or paid shall be
5	\$ 0	\$3,500 <u>\$3,750</u>	35%
6	3,501 <u>3,751</u>	3,760 <u>4,010</u>	34%
7	3,761 <u>4,011</u>	4,020 <u>4,270</u>	33%
8	4,021 <u>4,271</u>	4,280 <u>4,530</u>	32%
9	4,281 <u>4,531</u>	4,540 <u>4,790</u>	31%
10	4,541 <u>4,791</u>	4,800 <u>5,050</u>	30%
11	4,801 <u>5,051</u>	5,060 <u>5,310</u>	29%
12	5,061 <u>5,311</u>	5,320 <u>5,570</u>	28%
13	5,321 <u>5,571</u>	5,580 <u>5,830</u>	27%
14	5,581 <u>5,831</u>	5,840 <u>6,090</u>	26%
15	5,841 <u>6,091</u>	6,100 <u>6,350</u>	25%
16	6,101 <u>6,351</u>	6,360 <u>6,610</u>	24%
17	6,361 <u>6,611</u>	6,620 <u>6,870</u>	23%
18	6,621 <u>6,871</u>	6,880 <u>7,130</u>	22%
19	6,881 <u>7,131</u>	7,140 <u>7,390</u>	21%
20	7,141 <u>7,391</u>	7,400 <u>7,650</u>	20%
21	7,401 <u>7,651</u>	7,660 <u>7,910</u>	19%
22	7,661 <u>7,911</u>	7,920 <u>8,170</u>	18%
23	7,921 <u>8,171</u>	8,180 <u>8,430</u>	17%
24	8,181 <u>8,431</u>	8,440 <u>8,690</u>	16%
25	8,441 <u>8,691</u>	8,700 <u>8,950</u>	15%
26	8,701 <u>8,951</u>	8,960 <u>9,210</u>	14%
27	8,961 <u>9,211</u>	9,220 <u>9,470</u>	13%
28	9,221 <u>9,471</u>	9,480 <u>9,730</u>	12%
29	9,481 <u>9,731</u>	9,750 <u>10,000</u>	11%

1 over ~~9,750~~ 10,000 No refund

2 Section 5. That § 10-18A-6 be amended to read as follows:

3 10-18A-6. The amount of refund of real property taxes due or paid for a multiple-member
4 household made pursuant to this chapter shall be according to the following schedule:

5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27
	If household income is																					
	more than:	but not more than																				
	\$ 0	\$6,250 <u>\$6,500</u>																				
	6,251 <u>6,501</u>	6,611 <u>6,861</u>																				
	6,612 <u>6,862</u>	6,972 <u>7,222</u>																				
	6,973 <u>7,223</u>	7,333 <u>7,583</u>																				
	7,334 <u>7,584</u>	7,694 <u>7,944</u>																				
	7,695 <u>7,945</u>	8,055 <u>8,305</u>																				
	8,056 <u>8,306</u>	8,416 <u>8,666</u>																				
	8,417 <u>8,667</u>	8,777 <u>9,027</u>																				
	8,778 <u>9,028</u>	9,138 <u>9,388</u>																				
	9,139 <u>9,389</u>	9,499 <u>9,749</u>																				
	9,500 <u>9,750</u>	9,860 <u>10,110</u>																				
	9,861 <u>10,111</u>	10,221 <u>10,471</u>																				
	10,222 <u>10,472</u>	10,582 <u>10,832</u>																				
	10,583 <u>10,833</u>	10,943 <u>11,193</u>																				
	10,944 <u>11,194</u>	11,304 <u>11,554</u>																				
	11,305 <u>11,555</u>	11,665 <u>11,915</u>																				
	11,666 <u>11,916</u>	12,026 <u>12,276</u>																				
	12,027 <u>12,277</u>	12,387 <u>12,637</u>																				
	12,388 <u>12,638</u>	12,750 <u>13,000</u>																				
	over 12,750 <u>13,000</u>																					

28 Section 6. That § 10-45A-5 be amended to read as follows:

10-45A-5. The amount of any claim made pursuant to this chapter by a claimant from a household consisting solely of one individual shall be determined as follows:

- (1) If the claimant's income is three thousand ~~five hundred~~ seven hundred fifty dollars or less, a sum of two hundred fifty-eight dollars;
- (2) If the claimant's income is three thousand ~~five hundred one~~ seven hundred fifty-one dollars and not more than ~~nine thousand seven hundred fifty~~ ten thousand dollars, a sum of forty-six dollars plus three and four-tenths percent of the difference between ~~nine thousand seven hundred fifty~~ ten thousand dollars and the income of the claimant;
- (3) If the claimant's income is more than ~~nine thousand seven hundred fifty~~ ten thousand dollars, no refund.

Section 7. That § 10-45A-6 be amended to read as follows:

10-45A-6. The amount of any claim made pursuant to this chapter by a claimant from a household consisting of more than one individual shall be determined as follows:

- (1) If household income is six thousand ~~two hundred fifty~~ five hundred dollars or less, the sum of five hundred eighty-one dollars;
- (2) If household income is six thousand ~~two hundred fifty-one~~ five hundred one dollars and not more than ~~twelve thousand seven hundred fifty~~ thirteen thousand dollars, a sum of seventy-four dollars plus seven and eight-tenths percent of the difference between ~~twelve thousand seven hundred fifty~~ thirteen thousand dollars and total household income;
- (3) If household income is more than ~~twelve thousand seven hundred fifty~~ thirteen thousand dollars, no refund.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0671 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1241 - 02/08/2006

Introduced by: The Committee on Appropriations at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to reappropriate certain moneys to fund sales tax on food
2 refunds.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby reappropriated the sum of three million dollars (\$3,000,000) of
5 general funds, or so much thereof as may be available, and one million two hundred fifty
6 thousand dollars (\$1,250,000) of other fund expenditure authority, or so much thereof as may
7 be available to the Department of Social Services to provide sales tax on food refunds for South
8 Dakota families who need it most pursuant to chapter 55 of the 2005 Session Laws.

9 Section 2. The secretary of the Department of Social Services shall approve vouchers and
10 the state auditor shall draw warrants to pay expenditures authorized by this Act.



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0232

HOUSE ENGROSSED NO. **SB 49** - 02/16/2006

Introduced by: The Committee on Commerce at the request of the Department of Revenue
and Regulation

1 FOR AN ACT ENTITLED, An Act to modify the requirements for health discount plans.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as
4 follows:

5 For the purposes of this chapter, the term, affiliate, means a person that directly, or indirectly
6 through one or more intermediaries, controls, or is controlled by, or is under common control
7 with, the person specified. For the purposes of this section, the term, control, or controlled by,
8 or under common control with, means the possession, direct or indirect, of the power to direct
9 or cause the direction of the management and policies of a person, whether through the
10 ownership of voting securities, by contract other than a commercial contract for goods or
11 nonmanagement services, or otherwise, unless the power is the result of an official position with
12 or corporate office held by the person. Control is presumed to exist if any person, directly or
13 indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten
14 percent or more of the voting securities of any other person. This presumption may be rebutted
15 by a showing made in the manner provided by § 58-5A-29.



1 Section 2. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as
2 follows:

3 For the purposes of this chapter, the term, discount medical plan, means a business
4 arrangement or contract in which a person, in exchange for fees, dues, charges, or other
5 consideration, offers access for its members to providers of medical or ancillary services and
6 the right to receive discounts on medical or ancillary services provided under the discount
7 medical plan from those providers. The term includes a prescription drug discount plan.

8 The term does not include:

- 9 (1) A plan that does not charge a membership or other fee to use the discount medical
10 plan;
- 11 (2) Any product otherwise regulated under Title 58;
- 12 (3) A patient access program; or
- 13 (4) A medicare prescription drug plan.

14 Section 3. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as
15 follows:

16 For the purposes of this chapter, the term, discount prescription drug plan, means a business
17 arrangement or contract in which a person, in exchange for fees, dues, charges, or other
18 consideration provides access for its plan members to providers of pharmacy services and the
19 right to receive discounts on pharmacy services provided under the discount prescription drug
20 plan from those providers.

21 Section 4. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as
22 follows:

23 For the purposes of this section, discount medical plan organization, means an entity that,
24 in exchange for fees, dues, charges, or other consideration, provides access for discount medical

1 plan members to providers of medical or ancillary services and the right to receive medical or
2 speciality services from those providers at a discount. It is the organization that contracts with
3 providers, provider networks, or other discount medical plan organizations to offer access to
4 medical or speciality services at a discount and determines the charge to discount medical plan
5 members.

6 Section 5. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as
7 follows:

8 Terms used in this chapter mean:

9 (1) "Ancillary services," includes audiology, dental, vision, mental health, substance
10 abuse, chiropractic, and podiatry services;

11 (2) "Facility," an institution providing medical or ancillary services or a health care
12 setting. The term includes:

13 (a) A hospital or other licensed inpatient center;

14 (b) An ambulatory surgical or treatment center;

15 (c) A skilled nursing center;

16 (d) A residential treatment center;

17 (e) A rehabilitation center; and

18 (f) A diagnostic, laboratory or imaging center;

19 (3) "Health care professional," a physician, pharmacist, or other health care practitioner
20 who is licensed, accredited, or certified to perform specified medical or ancillary
21 services within the scope of his or her license, accreditation, certification, or other
22 appropriate authority consistent with state law;

23 (4) "Marketer," a person or entity that markets, promotes, sells, or distributes a discount
24 medical plan, including a private label entity that places its name on and markets or

1 distributes a discount medical plan pursuant to a marketing agreement with a
2 discount medical plan organization;

3 (5) "Medical services," any maintenance care of, or preventive care for, the human body,
4 or care, service, or treatment of an illness or dysfunction of, or injury to, the human
5 body. The term includes physician care, inpatient care, hospital surgical services,
6 emergency services, ambulance services, dental care services, vision care services,
7 mental health services, substance abuse services, chiropractic services, podiatric
8 services, laboratory services, medical equipment and supplies, pharmacy services or
9 ancillary services;

10 (6) "Medicare prescription drug plan," a plan that provides Medicare Part D prescription
11 drug benefit in accordance with the requirements of the federal Medicare Prescription
12 Drug, Improvement and Modernization Act of 2003;

13 (7) "Member," any individual who pays fees, dues, charges, or other consideration for
14 the right to receive the benefits of a discount medical plan. Member does not include
15 any individual who enrolls in a patient access program;

16 (8) "Patient access program," a voluntary program sponsored by a pharmaceutical
17 manufacturer or a consortium of pharmaceutical manufacturers, that provide free or
18 discounted health care products directly to low-income or uninsured individuals
19 either through a discount card or direct shipment;

20 (9) "Provider," any health care professional or facility that has contracted, directly or
21 indirectly, with a discount medical plan organization to provide medical or ancillary
22 services to members;

23 (10) "Provider network," an entity that negotiates directly or indirectly with a discount
24 medical plan organization on behalf of more than one provider to provide medical

1 or ancillary services to members.

2 Section 6. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as
3 follows:

4 This Act applies to all discount medical plan organizations doing business in South Dakota.

5 Section 7. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as
6 follows:

7 A discount medical plan organization that is a health carrier registered pursuant to Title 58:

8 (1) Is not required to register as a discount medical plan organization. However, any of
9 its affiliates that operate as a discount medical plan organization in this state shall
10 comply with all provisions of this Act and shall register as a discount medical plan
11 organization;

12 (2) Is required to comply with sections 24 to 42, inclusive, of this Act.

13 Section 8. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as
14 follows:

15 If a discount medical plan organization loses its registration, or other form of authority to
16 operate as a discount medical plan organization in another state, or is the subject of any
17 disciplinary administrative proceeding related to the organization's operating as a discount
18 medical plan organization in another state, the discount medical plan organization shall
19 immediately notify the director.

20 Section 9. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as
21 follows:

22 After the receipt of an application filed pursuant to § 58-17C-104, the director shall review
23 the application and notify the applicant of any deficiencies in the application.

24 Section 10. That chapter 58-17C be amended by adding thereto a NEW SECTION to read

1 as follows:

2 Prior to registration by the director, each discount medical plan organization shall establish
3 an internet website in order to conform to the requirements of section 31 of this Act.

4 Section 11. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
5 as follows:

6 Any registration is effective for one year, unless prior to its expiration the registration is
7 renewed in accordance with this section or suspended or revoked in accordance with section 13
8 of this Act. At least ninety days before a registration expires, the discount medical plan
9 organization shall submit a renewal application form.

10 Section 12. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
11 as follows:

12 The director shall renew the registration of each holder that meets the requirements of this
13 Act.

14 Section 13. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
15 as follows:

16 The director may suspend the authority of a discount medical plan organization to enroll
17 new members or refuse to renew or revoke a discount medical plan organization's registration
18 if the director finds that any of the following conditions exist:

- 19 (1) The discount medical plan organization is not operating in compliance with this Act;
- 20 (2) The discount medical plan organization has advertised, merchandised, or attempted
21 to merchandise its services in such a manner as to misrepresent its services or
22 capacity for service or has engaged in deceptive, misleading, or unfair practices with
23 respect to advertising or merchandising;
- 24 (3) The discount medical plan organization is not fulfilling its obligations as a discount

1 medical plan organization; or

2 (4) The continued operation of the discount medical plan organization would be
3 hazardous to its members.

4 Section 14. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
5 as follows:

6 If the director has cause to believe that grounds for the nonrenewal, suspension, or
7 revocation of a registration exists, the director shall notify the discount medical plan
8 organization in writing specifically stating the grounds for the refusal to renew or suspension
9 or revocation and may pursue a hearing on the matter in accordance with the provisions of the
10 chapter 1-26.

11 Section 15. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
12 as follows:

13 If the registration of a discount medical plan organization is surrendered, revoked, or not
14 renewed, the discount medical plan organization shall proceed, immediately following the
15 effective date of the order of revocation or, in the case of a nonrenewal, the date of expiration
16 of the registration, to wind up its affairs transacted under the registration. The discount medical
17 plan organization may not engage in any further advertising, solicitation, collecting of fees or
18 renewal of contracts.

19 Section 16. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
20 as follows:

21 The director shall, in its order suspending the authority of the discount medical plan
22 organization to enroll new members, specify the period during which the suspension is to be in
23 effect and the conditions, if any, that shall be met by the discount medical plan organization
24 prior to reinstatement of its registration to enroll members. The director may rescind or modify

1 the order of suspension prior to the expiration of the suspension period. No registration of a
2 discount medical plan organization may be reinstated unless requested by the discount medical
3 plan organization. The director may not grant the request for reinstatement if the director finds
4 that the circumstances for which the suspension occurred still exist or are likely to recur.

5 Section 17. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
6 as follows:

7 In lieu of suspending or revoking a discount medical plan organization's registration
8 pursuant to section 13 of this Act, if the discount medical plan organization has been found to
9 have violated any provision of this Act, the director may enter into a consent order pursuant to
10 § 58-4-28.1.

11 Section 18. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
12 as follows:

13 A provider who provides discounts to the provider's own patients without any cost or fee of
14 any kind to the patient is not required to obtain and maintain a registration under this Act as a
15 discount medical plan organization.

16 Section 19. That § 58-17C-108 be repealed.

17 ~~—58-17C-108. Any person subject to registration pursuant to § 58-17C-104 shall maintain a~~
18 ~~surety bond in the amount of twenty thousand dollars issued by a surety company authorized to~~
19 ~~do business in this state, or establish and maintain a surety account in the amount of twenty~~
20 ~~thousand dollars at a federally insured bank, savings and loan association, or federal savings~~
21 ~~bank located in this state. Each surety bond and surety account is subject to the following:~~

22 ~~—(1) A copy of the bond or a statement identifying the depository, trustee, and account~~
23 ~~number of the surety account, and thereafter proof of annual renewal of the bond or~~
24 ~~maintenance of the surety account, shall be filed with the director of the Division of~~

Insurance;

~~(2) A surety account shall be maintained until two years after the date that the person subject to registration pursuant to § 58-17C-104 ceases operations in the state. Funds from any surety account may not be released to the person subject to registration pursuant to § 58-17C-104 without the specific consent of the attorney general;~~

~~(3) No surety on the bond of a person subject to registration pursuant to § 58-17C-104 may cancel such bond without giving written notice thereof to the secretary of state. Whenever the secretary of state receives notice of a surety's intention to cancel the bond of a person subject to registration pursuant to § 58-17C-104, the secretary of state shall notify the affected person that, unless such person files another twenty thousand dollar surety bond with the secretary of state or establishes a twenty thousand dollar surety account on or before the cancellation date of such surety bond, then such person subject to registration pursuant to § 58-17C-104 is no longer authorized to do business in this state;~~

~~(4) The bond or surety account shall be in favor of any person and the director of the Division of Insurance for the benefit of any person who is damaged by any violation of §§ 58-17C-104 to 58-17C-108, inclusive, including any violation by the supplier or by any other person which markets, promotes, advertises, or otherwise distributes a discount card on behalf of the supplier. The bond shall cover any violation occurring during the time period during which the bond is in effect; and~~

~~(5) Any person claiming against the bond or surety account for a violation of §§ 58-17C-104 to 58-17C-108, inclusive, may maintain an action at law against the person subject to registration pursuant to § 58-17C-104 and against the surety or trustee of the surety account. The aggregate liability of the surety or trustee of the surety~~

1 ~~account to all persons damaged by violations of §§ 58-17C-104 to 58-17C-108,~~
2 ~~inclusive, may not exceed the amount of the surety bond or account.~~

3 Section 20. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
4 as follows:

5 Each registered discount medical plan organization shall maintain in force a surety bond in
6 its own name in an amount not less than twenty thousand dollars and shall be in favor of any
7 person and the director of the Division of Insurance for the benefit of any person who is
8 damaged by any violation of §§ 58-17C-104 to 58-17C-108, inclusive, including any violation
9 by the supplier or by any other person that markets, promotes, advertises, or otherwise
10 distributes a discount card on behalf of the supplier. The bond shall cover any violation
11 occurring during the time period during which the bond is in effect. The bond shall be issued
12 by an insurance company licensed to do business in this state. A copy of the bond or a statement
13 identifying the depository, trustee, and account number of the surety account, and thereafter
14 proof of annual renewal of the bond or maintenance of the surety account, shall be filed with
15 the director.

16 Section 21. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
17 as follows:

18 In lieu of the bond required by section 20 of this Act, a registered discount medical plan
19 organization may deposit and maintain deposited with the director, or at the discretion of the
20 director, with any organization or trustee acceptable to the director through which a custodial
21 or controlled account is utilized, cash, securities, or any combination of these or other measures
22 that are acceptable to the director which at all times have a market value of not less than thirty-
23 five thousand dollars. All income from the deposit is an asset of the discount medical plan
24 organization.

1 Section 22. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
2 as follows:

3 Except for the director, the assets or securities held in this state as a deposit pursuant to
4 sections 20 and 21 of this Act are not subject to levy by a judgment creditor or other claimant
5 of the discount medical plan organization.

6 Section 23. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
7 as follows:

8 The director may examine or investigate the business and affairs of any discount medical
9 plan organization to protect the interests of the residents of this state based on the following
10 reasons, including complaint indices, recent complaints, information from other states, or as the
11 director deems necessary. An examination or investigation shall be performed in accordance
12 with the provisions of chapter 58-3. The discount medical plan organization that is the subject
13 of the examination or investigation shall pay the expenses incurred in conducting the
14 examination or investigation. Failure by the discount medical plan organization to pay the
15 expenses is grounds for denial of a registration to operate as a discount medical plan
16 organization or revocation of a registration to operate as a discount medical plan organization.

17 The discount medical plan organization is subject to the provisions of § 58-33-66.

18 Section 24. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
19 as follows:

20 If the discount medical plan organization cancels a membership for any reason other than
21 nonpayment of fees by the member, the discount medical plan organization shall make a pro rata
22 reimbursement of all periodic charges to the member.

23 Section 25. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
24 as follows:

1 A discount medical plan organization shall prepare written materials for its members that
2 specifies the benefits a member is to receive under the discount medical plan and that complies
3 with sections 38 to 42, inclusive, of this Act.

4 Section 26. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
5 as follows:

6 Any provider offering medical or ancillary services to members shall provide the services
7 in accordance with a written agreement entered into directly by the provider or indirectly by a
8 provider network to which the provider belongs.

9 Section 27. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
10 as follows:

11 A provider agreement between a discount medical plan organization and a provider shall
12 provide the following:

- 13 (1) A list of the medical or ancillary services and products to be provided at a discount;
- 14 (2) The amount or amounts of the discounts or, alternatively, a fee schedule that reflects
15 the provider's discounted rates; and
- 16 (3) That the provider will not charge members more than the discounted rates.

17 Section 28. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
18 as follows:

19 A provider agreement between a discount medical plan organization and a provider network
20 shall require that the provider network have written agreements with its providers that:

- 21 (1) Contain the provisions described in section 27 of this Act;
- 22 (2) Authorize the provider network to contract with the discount medical plan
23 organization on behalf of the provider; and
- 24 (3) Require the provider network to maintain an up-to-date list of its contracted providers

1 and to provide the list on a monthly basis to the discount medical plan organization.

2 Section 29. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
3 as follows:

4 A provider agreement between a discount medical plan organization and an entity that
5 contracts with a provider network shall require that the entity, in its contracts with the provider
6 network, require the provider network to have written agreements with its providers that comply
7 with the provisions of section 28 of this Act.

8 Section 30. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
9 as follows:

10 The discount medical plan organization shall maintain a copy of each active provider
11 agreement into which it has entered.

12 Section 31. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
13 as follows:

14 Each discount medical plan organization shall maintain on an internet website page an up-
15 to-date list of the names and addresses of the providers with which it has contracted directly or
16 through a provider network. The internet website address shall be prominently displayed on all
17 of its advertisements, marketing materials, brochures, and discount medical plan cards.

18 Section 32. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
19 as follows:

20 The provisions of sections 26 to 31, inclusive, of this Act, apply to those providers with
21 which the discount medical plan organization has contracted with directly or indirectly as well
22 as those providers that are members of a provider network with which the discount medical plan
23 organization has contracted directly or indirectly.

24 Section 33. That chapter 58-17C be amended by adding thereto a NEW SECTION to read

1 as follows:

2 A discount medical plan organization may market directly or contract with other marketers
3 for the distribution of its product. The discount medical plan organization shall have an executed
4 written agreement with a marketer prior to the marketer's marketing, promoting, selling, or
5 distributing the discount medical plan.

6 Section 34. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
7 as follows:

8 The agreement between the discount medical plan organization and the marketer shall
9 prohibit the marketer from using advertising, marketing materials, brochures, and discount
10 medical plan cards without the discount medical plan organization's approval in writing.

11 Section 35. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
12 as follows:

13 The discount medical plan organization shall be bound by and is responsible for the
14 activities of a marketer that are within the scope of the marketer's contract with the organization,
15 or are otherwise approved by or under the direction and control of the organization.

16 Section 36. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
17 as follows:

18 A discount medical plan organization shall approve in writing any advertisement, marketing
19 material, brochure, or discount card used by marketers to market, promote, sell, or distribute the
20 discount medical plan prior to their use.

21 Section 37. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
22 as follows:

23 Upon request, a discount medical plan organization shall submit to the director any
24 advertising, marketing material, or brochure regarding a discount medical plan.

1 Section 38. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
2 as follows:

3 Any advertisement of a discount medical plan organization shall be truthful and not
4 misleading in fact or in implication. An advertisement is misleading if it has a capacity or
5 tendency to mislead or deceive based on the overall impression that the advertisement is
6 reasonably expected to create within the segment of the public to which it is directed.

7 Section 39. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
8 as follows:

9 No discount medical plan organization may:

- 10 (1) Except as otherwise provided in this Act or as a disclaimer of any relationship
11 between discount medical plan benefits and insurance, or as a description of an
12 insurance product connected with a discount medical plan, use the term, insurance,
13 in any advertisement, marketing material, brochure, or discount medical plan cards;
- 14 (2) Use in any advertisement, marketing material, brochure, or discount medical plan
15 card, the terms, health plan, coverage, co-pay, co-payments, deductible, preexisting
16 conditions, guaranteed issue, premium, PPO, preferred provider organization, or
17 other term in a manner that could reasonably mislead an individual into believing that
18 the discount medical plan is health insurance;
- 19 (3) Use language in any advertisement, marketing material, brochure, or discount
20 medical plan card with respect to being licensed or registered by the Division of
21 Insurance in a manner that could reasonably mislead an individual into believing that
22 the discount medical plan is insurance or has been endorsed by the state;
- 23 (4) Make misleading, deceptive, or fraudulent representations regarding the discount or
24 range of discounts offered by the discount medical plan or the access to any range of

1 discounts offered by the discount medical plan;

2 (5) Have restrictions on access to discount medical plan providers, including, except for
3 hospital services, waiting periods and notification periods; or

4 (6) Pay providers any fees for medical or ancillary services or collect or accept money
5 from a member to pay a provider for medical or ancillary services provided under the
6 discount medical plan, unless the discount medical plan organization has an active
7 certificate of authority to act as a third party administrator in accordance with chapter
8 58-29D.

9 Section 40. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
10 as follows:

11 If the initial contact with a prospective member is by telephone, the disclosures required by
12 § 58-17C-106 shall be made orally and included in the initial written materials that describe the
13 benefits under the discount medical plan provided to the prospective or new member.

14 Section 41. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
15 as follows:

16 In addition to the general disclosures required by § 58-17C-106, each discount medical plan
17 organization shall provide to each new member a copy of the terms of the discount medical plan
18 in written materials.

19 Section 42. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
20 as follows:

21 The written materials required under this Act shall be clear and include information on:

22 (1) The name of the member;

23 (2) The benefits to be provided under the discount medical plan;

24 (3) Any processing fees and periodic charges associated with the discount medical plan;

- 1 (4) The mode of payment of any processing fees and periodic charges, such as monthly,
2 quarterly, or otherwise, and procedures for changing the mode of payment;
- 3 (5) Any limitations, exclusions, or exceptions regarding the receipt of discount medical
4 plan benefits;
- 5 (6) Any waiting periods for certain medical or ancillary services under the discount
6 medical plan;
- 7 (7) Procedures for obtaining discounts under the discount medical plan, such as requiring
8 members to contact the discount medical plan organization to make an appointment
9 with a provider on the member's behalf;
- 10 (8) Cancellation procedures, including information on the member's thirty-day
11 cancellation rights and refund requirements and procedures for obtaining refunds;
- 12 (9) Renewal, termination, and cancellation terms and conditions;
- 13 (10) Procedures for adding new members to a family discount medical plan, if applicable;
- 14 (11) Procedures for filing complaints under the discount medical plan organization's
15 complaint system and information that, if the member remains dissatisfied after
16 completing the organization's complaint system, the plan member may contact the
17 local insurance department in the member's state; and
- 18 (12) The name and mailing address of the registered discount medical plan organization
19 or other entity where the member can make inquiries about the plan, send
20 cancellation notices, and file complaints.

21 Section 43. That chapter 58-17C be amended by adding thereto a NEW SECTION to read
22 as follows:

23 Each discount medical plan organization shall provide the director at least thirty days
24 advance notice of any change in the discount medical plan organization's name, principal

business address, mailing address, or internet website address.

Section 44. That § 58-17C-104 be amended to read as follows:

58-17C-104. ~~Any person, directly or indirectly, offering a plan or program providing a discount on the fees of any provider of health care goods or services, Any discount medical plan organization~~ that is not offered directly by a health carrier as provided by this chapter, shall register in a format as prescribed by the director and shall file reports and conduct business under the same standards as required of utilization review organizations in accordance with provisions of §§ 58-17C-65 to 58-17C-66, inclusive. No health carrier may offer or provide coverage through a person not registered but required to be registered pursuant to §§ 58-17C-104 to 58-17C-108, inclusive. Any plan or program that is registered pursuant to § 58-17C-20 is not required to maintain a separate registration pursuant to §§ 58-17C-104 to 58-17C-108, inclusive. ~~A~~ Any plan or program of discounted goods or services that is offered by a health carrier in conjunction with a health benefit plan, as defined in §§ 58-18-42 and 58-17-66(9), or a medicare supplement policy as defined in § 58-17A-1, or other insurance product that is offered by an authorized insurer and that is subject to the jurisdiction of the director is not required to be registered pursuant to §§ 58-17C-104 to 58-17C-108, inclusive. ~~A plan or program offered by a health care provider as defined in § 34-12C-1 is not required to register pursuant to §§ 58-17C-104 to 58-17C-108, inclusive, if the health care provider does not charge for the plan or program.~~

Section 45. That § 58-17C-106 be amended to read as follows:

58-17C-106. No person subject to registration pursuant to § 58-17C-104 may receive personal information, money, or other consideration for enrollment in a plan or program until the consumer has signed a contract or agreement with the person and no later than at the time the contract is signed, provides, at a minimum, the following information, disclosed in a clear

1 and conspicuous manner:

- 2 (1) The name, true address, telephone number, and website address of the registered
3 person who is responsible for customer service;
- 4 (2) A detailed description of the plan or program, including the goods and services
5 covered and all exemptions and discounts that apply to each category thereof;
- 6 (3) All costs associated with the plan or program, including any sign-up fee and any
7 recurring costs;
- 8 (4) An internet website that is updated regularly or a paper copy where the consumer can
9 access the names and addresses of all current participating providers in the
10 consumer's area;
- 11 (5) A statement of the consumer's right to return the plan or program within thirty days
12 of its delivery to the person or agent through whom it was purchased and to have all
13 costs of the plan or program, excluding a nominal process fee refunded if, after
14 examination of the plan or program, the purchaser is not satisfied with it for any
15 reason;
- 16 (6) A statement of the consumer's right to terminate the plan or program at any time by
17 providing written notice or other notice, the form to be used for the termination
18 notice, and the address where the notice is to be sent if different than the address
19 provided in subdivision (1); and
- 20 (7) Notice that the consumer is not obligated to make any further payments under the
21 plan or program, nor is the consumer entitled to any benefits under the plan or
22 program for any period of time after the last month for which payment has been
23 made;
- 24 (8) That the plan is not insurance;

1 (9) That the range of discounts for medical or ancillary services provided under the plan
2 will vary depending on the type of provider and medical or ancillary service received;

3 (10) That the plan does not make payments to providers for the medical or ancillary
4 services received under the discount medical plan;

5 (11) That the plan member is obligated to pay for all medical or ancillary services, but will
6 receive discount from those providers that have contracted with the discount medical
7 plan organization.

8 The requirement that the contract or agreement be signed prior to any money or
9 consideration being obtained does not apply to a transaction in which payment by the consumer
10 is made by credit card or by means of a telephonic transaction so long as the disclosures
11 required by this section are provided to the consumer by way of postal mail, facsimile, or
12 electronic mail within ten business days of the consumer's enrollment.

13 Section 46. Nothing in this Act may be construed to discharge any requirements imposed
14 by subdivision 37-24-6(12).

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

589M0401

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **SB 151** - 02/10/2006

Introduced by: Senators Schoenbeck, Abdallah, Apa, Bogue, Duenwald, Duniphan, Greenfield, Hansen (Tom), Hanson (Gary), Koskan, McCracken, and Moore and Representatives Michels, Cutler, Davis, Dennert, Faehn, Fryslie, Garnos, Hackl, Halverson, Hanks, Haverly, Hennies, Jerke, Koistinen, Nelson, Pederson (Gordon), Peters, Putnam, Rausch, Rave, and Tidemann

1 FOR AN ACT ENTITLED, An Act to define the local government contribution for the
2 construction of an armory.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 33-11-6 be amended to read as follows:

5 33-11-6. The Department of Military and Veterans Affairs shall also have the power to
6 receive from counties, school districts, municipalities, or other sources, donations of land or
7 contributions of money, buildings, or other property, to aid in providing or erecting armories and
8 other facilities throughout the state for the use of the national guard and which shall be held as
9 other property for the use of the state.

10 Section 2. That § 33-11-7 be amended to read as follows:

11 33-11-7. Counties, school districts, or municipalities are hereby authorized to make
12 contributions of land, money, buildings, or other property for the purposes of this chapter; ~~and~~
13 Also, each first or second class municipality of the state is hereby authorized and empowered



1 to levy a tax upon all property therein subject to taxation to raise the necessary money for such
2 armory building or other facility and site; provided that no money raised by such tax shall be
3 donated or tax levied until the same is authorized by a vote of a majority of the electors in such
4 municipality at an election called for that purpose. Any contribution of money from a county,
5 school district, or municipality for the construction of an armory shall be matched with a sum
6 appropriated from the state treasury that is not greater than fifty percent of the total local effort
7 required by the Department of Military and Veterans Affairs or the United States Department
8 of Defense.